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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
841 Chestnut Building
Philadelphia, Pennsylvania 19107

NOV 8 1981

NOTICE OF DECISION NOT TO USE
SPECIAL NOTICE PROCEDURES

CERTIFIED MAIL: RETURN RECEIPT REQUESTED

Mr. Charles Cole, President
First Omni Bank, National Association
499 Mitchell Street
Millsboro, DE 19966

Re: NCR Corporation (Millsboro Plant) Superfund Site
Millsboro, Sussex County, Delaware

Dear Mr. Cole:

This letter follows a general notice letter that was issued on April 4, 1986, in connection with the NCR Corporation (Millsboro Plant) Superfund Site (Site). As the listed contact person for the potentially responsible party (PRP) identified above, this notice to waive special notice procedures has been sent to your attention.

By this letter you are being provided with an opportunity to participate in the Superfund remedial process by performing or financing the Remedial Design and Remedial Action (RD/RA) for the NCR Corporation (Millsboro Plant) Superfund Site in Millsboro, Sussex County, Delaware.

NOTICE OF POTENTIAL LIABILITY

As set forth in the general notice letter previously sent to First Delaware Land Holdings (First Omni Bank, National Association's predecessor), EPA has information that First Omni Bank, National Association may be a PRP as defined by Section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9607(a), with respect to this Site.

DECISION NOT TO USE SPECIAL NOTICE

The United States Environmental Protection Agency (EPA) has decided not to invoke the Section 122(e) special notice procedures specified in CERCLA, 42 U.S.C. § 9622(e), with respect to First Omni Bank, National Association because it would not expedite the RD/RA for this Site. EPA has chosen not to issue Special Notice for RD/RA because NCR Corporation has expressed

AR000183

its willingness to initiate RD/RA work as soon as possible. NCR Corporation and the Delaware Department of Natural Resources and Environmental Control (DNREC) have an existing Consent Order dated March 18, 1988, to which the EPA was not a party, under which NCR Corporation agreed to perform the remedial action for the Site once the State of Delaware issued a Record of Decision. However, EPA informed NCR Corporation in a letter dated August 1, 1991, and during a meeting held at EPA on October 10, 1991, that EPA is not bound by said Consent Order between the NCR Corporation and DNREC, and that the State of Delaware has not issued a Record of Decision. EPA was not a party nor a signatory to the Consent Order. The United States position is that the State of Delaware has no authority, nor did the court have jurisdiction, to enter into such a Consent Order under CERCLA. EPA has chosen, however, to provide an opportunity for all PRPs to make a good faith offer to conduct or finance the RD/RA within 14 days of receipt of this letter (see "Good Faith Offer" section below). Please note, the decision not to use the special notice procedures with respect to First Omni Bank, National Association, does not preclude you from entering into discussions with EPA regarding your participation in response activities at the Site. EPA encourages all PRP offers regarding settlement of this matter and remediation of the Site.

FUTURE RESPONSE ACTIONS

EPA plans to ensure that the remedy selected in the EPA Record of Decision (ROD), dated August 12, 1991, for the Site is implemented. The major components of the selected remedy are as follows:

- Extraction of the contaminated ground water using additional recovery wells until clean up levels are achieved;
- Treatment of VOC contamination in ground water using an air stripper followed by carbon adsorption of the air stripper effluent until the clean up levels (MCLs and non-zero MCLGs) are achieved;
- A provision for chromium treatment using coagulation and filtration, if determined necessary by EPA, during predesign studies;
- A provision for air emission controls, if determined necessary by EPA, during predesign studies;
- A combined discharge to surface water and/or onsite ground water infiltration galleries;
- Conducting a well survey to determine the location of all wells within a one mile radius of the Site, in order to update the previous well survey;

AR000104

- Continued quarterly monitoring of the ground water until the clean up levels (MCLs and non-zero MCLGs) are achieved;
- Instituting an annual monitoring program for surface water and sediments of Iron Branch until the ground water clean up levels (MCLs and non-zero MCLGs) are achieved; and
- Institutional controls restricting ground water use until clean up levels (MCLs and non-zero MCLGs) are achieved throughout the entire ground water plume by establishing and enforcing a state ground water management zone and property deed restrictions regarding the installation of wells in the ground water management zone.

CONSENT DECREE

A copy of the EPA's ROD and site specific draft consent decree are attached. These are provided to assist you and the other PRPs in developing a good-faith offer for conducting the RD/RA.

GOOD-FAITH OFFER

A good faith offer must be submitted within 14 days of receipt of this letter. A good-faith offer to conduct or finance the RD/RA is a written proposal that demonstrates the PRPs' qualifications and willingness to conduct or finance the design, implementation, and monitoring of the remedy specified in the ROD. In order for your proposal to be considered a good-faith offer, it must include the following elements:

1. A statement of willingness by the PRPs to conduct or finance the RD/RA as described in EPA's ROD and site specific draft consent decree and which provides a sufficient basis for negotiations.
2. Detailed comments on the language or terms of EPA's site specific draft consent decree.
3. A general statement identifying how the PRPs plan to proceed with the work.
4. A demonstration of the PRPs' technical capability to carry out the RD/RA including the identification of the firm(s) that may actually conduct the work or a description of the process that will be used to select the firm(s).
5. A demonstration of the PRPs' willingness and ability to finance the response.

AR000185

6. A statement of willingness by the PRPs to reimburse EPA for its unreimbursed past response costs and those costs to be incurred in overseeing the PRPs' conduct of the RD/RA.
7. The name, address, and phone number of the party or steering committee who will represent the PRPs in negotiations.

REIMBURSEMENT OF EPA'S COSTS

In accordance with CERCLA, EPA already has undertaken certain actions and incurred certain costs in response to conditions at the Site. These response actions include EPA oversight of work undertaken by responsible parties. As of October 31, 1991, the EPA has incurred unreimbursed costs in excess of \$602,309.93 for response activities related to the Site.

As set forth above, EPA anticipates expending additional funds for the RD/RA. Whether EPA funds the entire RD/RA, or simply incurs costs by overseeing the parties conducting these response activities, EPA believes that your company is liable for these expenditures and any unreimbursed past response costs, plus interest.

PRP STEERING COMMITTEE

EPA would like to encourage good-faith negotiations between your company and the Agency, and between you and the other PRPs. To facilitate these negotiations EPA has enclosed a list of the other PRPs to whom this notification is being sent. Inclusion on or exclusion from the list does not constitute a final determination by EPA concerning the liability of any party for the release or threat of release of hazardous substances at the Site.

EPA recommends that all PRPs meet to select a steering committee responsible for representing the group's interests. Alternatively, EPA encourages each PRP to select one person from its company or organization who will represent its interest.

ADMINISTRATIVE RECORD

Pursuant to CERCLA Section 113(k), 42 U.S.C. § 9613(k), EPA has established an administrative record that contains documents that form the basis of EPA's decision on the selection of a response action for the Site. The administrative record file, which contains the documents related to the response action, selected for this Site, is available to the public for inspection and comment. The administrative record file is available at the information repositories at the following locations:

AR000186

Town Office Building
P.O. Box 77
Mitchell Street
Millsboro, Delaware 19966
(302) 934-8171
Hours: M-F 8:00 am to 4:30 pm

Delaware Department of Natural Resources
and Environmental Control(DNREC)
715 Grantham Lane
New Castle, Delaware 19720
(302) 323-4540
Hours: M-F 8:00 am to 4:00 pm

U.S. EPA Region III, Docket Room
Ms. Margaret Leva
841 Chestnut Building, 9th floor
Philadelphia, PA 19107
(215) 597-3037
Hours: M-F 8:30 am to 4:30 pm

EPA will consider comments received, if any, after the close of the comment period in accordance with 40 C.F.R. § 300.825.

PRP RESPONSE AND EPA CONTACT PERSON

You are encouraged to contact EPA as soon as possible to state your willingness to participate in the future negotiations at this Site. Otherwise, you have 14 calendar days from receipt of this letter to provide EPA in writing with a good-faith offer demonstrating your willingness to perform the RD/RA for the Site. You may respond individually or through a steering committee if such a committee has been formed. If EPA does not receive a timely response, EPA will assume that you do not wish to negotiate a resolution of your liabilities in connection with the response, and that you have declined any involvement in performing the response activities. Under this circumstance, EPA may commence work without further notice or pursue enforcement options. You may be held liable by EPA under Section 107 of CERCLA for the cost of the response activities EPA performs at the Site and for any damages to natural resources.

Your response to this notice letter should be sent to:

Roberta Riccio (3HW25)
Remedial Project Manager
U.S. Environmental Protection Agency, Region III
841 Chestnut Building
Philadelphia, PA 19107

The factual and legal discussions contained in this letter are intended solely for notification and information purposes.

AR000187